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Town Physicians—Appointment, Duties, and Salaries. (Ch. 413, Act. May 3, 1916.)

SECTION 1. Chapter 63 of the laws of 1909, entitled "An act relating to towns, constituting chapter 62 of the consolidated laws," is hereby amended by adding thereto, at the end of article 6, a new section to be section 142, to read as follows:

SEC. 142. *Town physician.*—The town board of any town containing a village or hamlet in which there is not a practicing physician residing within its boundaries or within a radius of 8 miles thereof may, at a special meeting called for that purpose, establish the office of town physician and fix the salary of such physician at not more than \$1,000 per annum, and appoint to the office so created a duly qualified physician upon condition that he shall reside in such village or hamlet. The compensation of such town physician shall be a town charge and the sum necessary to pay the same shall be levied, collected, and paid at the time and in the manner that other charges against the town are levied, collected and paid. It shall be the duty of a town physician so appointed to render to all poor persons within the town medical relief and attendance when requested so to do by the superintendent of the poor of the county in which the town is situated, or the supervisor of the town or an overseer of the poor of the town. If such town physician is also a local health officer he shall receive in addition the compensation of such officer as provided by law.

Mosquitoes—Extermination—County Commissions—Appointment, Powers, and Duties. (Ch. 408, Act May 3, 1916.)

SECTION 1. Article 18 of chapter 49 of the laws of 1909, entitled "An act in relation to the public health, constituting chapter 45 of the consolidated laws," as renumbered article 21 by chapter 630 of the laws of 1913, is hereby renumbered article 22, and such chapter is hereby amended by inserting therein a new article 21, to read as follows:

ART. 21. SEC. 400. *Establishment; appointment of commissioners.*—In any county of the State of New York having a population of less than 200,000 adjacent to a city of the first class having a population of over 3,000,000 there is hereby created an appointing board to consist of the county judge, the county clerk, and the county comptroller, to be known as "The (here shall be inserted the name of the county in and for which such appointing board shall act) county board" for the appointment of a county mosquito extermination commission, as hereinafter provided. The members of such appointing board shall serve without pay, except that the necessary expenses of each member for actual attendance at any meeting of such board shall be allowed and paid. Within 10 days after the presentation of a petition signed and acknowledged in the same manner as are deeds entitled to be recorded by 200 residents of such county, it shall be the duty of the county judge to convene the said board at the most suitable and convenient place or otherwise arrange for concerted action for the appointment of four resident taxpayers in any such county, who, with the chairman of the board of supervisors and one member, to be appointed by the State commissioner of health, as provided by sections 461 and 402 of this article, shall constitute a board of commissioners to be known as "The (here shall be inserted the name of the county in and for which the commissioners are to be appointed) county extermination commission."

SEC. 401. *Chairman of board of supervisors ex officio member.*—The chairman of the board of supervisors of each county in and for which a commission is appointed shall be a member ex officio of such commission, and shall serve

without compensation, except that the necessary expenses actually incurred by his attendance upon meetings of such commission shall be allowed and paid. He shall have equal powers, privileges, and duties with the other members of such commission.

SEC. 402. *The State commissioner of health to appoint one member of such commission.*—The State commissioner of health shall appoint one member of such commission who shall have equal powers, privileges, and duties with the other members of such commission. Such member shall be a resident of the county for which such commissioners are appointed, and he shall in addition to his powers, duties, and privileges conferred, represent the State commissioner of health in all matters as the State commissioner of health may direct.

SEC. 403. *Members to serve without compensation.*—The members of such commission shall serve without compensation, except that the necessary expenses of each commissioner for actual attendance at meetings of such commission shall be allowed and paid. No person employed by such commission shall be a member thereof.

SEC. 404. *Commissions; terms of office.*—The commissioners first appointed by the county board in any district under the provisions of this article shall hold office respectively for the term of one, two, three, and four years. The term of the member appointed by the State commissioner of health shall be four years. All such commissioners after the first appointment shall be appointed for the full term of four years. Vacancies in such commission, occurring by resignation or otherwise, shall be filled by the county board in the manner provided in section 400, except any vacancy caused by resignation or otherwise of the member appointed by the State commissioner of health, which shall be filled by the State commissioner of health in the manner provided in section 402 of this article, and the persons so appointed to fill such vacancies shall be appointed for the unexpired term only.

SEC. 405. *Official oath; officers.*—Before entering upon the duties of his office each commissioner shall take and subscribe an oath or affirmation before the clerk of the county in which is situated the district in and for which he is appointed to faithfully and impartially perform the duties of his office, which oath or affirmation shall be filed with such clerk. Every such commission shall annually choose from among its members a president and treasurer, who shall serve without pay, and they shall respectively perform the duties ordinarily incidental to such offices.

SEC. 406. *Commission a body corporate and politic; powers.*—From and after the appointment, qualification, and organization of such commissioners, such mosquito extermination commission shall become and be a body corporate and politic, under the name given in such petition, and by such name and style may sue, be sued, execute contracts, have a corporate seal, and shall have all powers herein conferred upon it within the counties wherein it is appointed.

SEC. 407. *Secretary of commission; salary.*—The commission may appoint a secretary, whose compensation shall be fixed by such commission; the salary of such secretary shall not exceed, however, the sum of \$1,800 per annum.

SEC. 408. *Clerks and assistants.*—Said commission may, with the approval of the board of supervisors of the county, appoint and employ such clerks, assistants, inspectors, and day laborers as may be necessary to carry out the provisions of this article. The compensation of such clerks and assistants shall be fixed by the board of supervisors of the county.

SEC. 409. *Duties of clerks and assistants.*—The commission shall prescribe the duties and hours of employment of clerks and assistants and make all rules and

regulations respecting the same. The commission shall furnish them with necessary and proper facilities.

SEC. 409a. *Accumulation of water a nuisance.*—Any accumulation of water in which mosquitoes are breeding, or are likely to breed, is hereby declared to be a nuisance.

SEC. 410. *Powers and duties of commission.*—Said commission shall use every means feasible and practicable to exterminate mosquitoes of every variety found within the county for which such commission is appointed. Such commission shall have power and authority to enter without hindrance upon any or all lands within the county for the purpose of draining or oiling the same and to perform all other acts which in its opinion and judgment may be necessary and proper for the elimination of breeding places of mosquitoes of which will tend to exterminate mosquitoes of fresh water, salt water, and every other kind or variety found within such counties.

SEC. 411. *Publication of notice of entry, claims, damages, and payments.*—Before entering upon any such lands for such purposes as outlined under section 410 hereof, the commission shall publish each year, at least once during the year, immediately following the approval by the State commissioner of health of its plans for work during the ensuing year, as provided in this article, in at least one newspaper in every town of the county where work is to be performed and in which such a paper is published, a general description of the land, with the names of the owners thereof as shown by the last assessment rolls, if known; if the name of the owner or owners be unknown, that fact must be stated and published; and in case of a town where work is to be performed by the commission and in which no newspaper is published, individual notices shall be first sent to every owner in such town upon whose land the commission proposes to enter for said purposes, if the name of such owner be known; if unknown, such notice shall be posted in not less than five conspicuous places in such town. Any person objecting to or who is aggrieved or who claims damages due to the execution of the work of the commission shall file a protest with the commission setting forth his grievance or claim. The commission shall thereupon, and within 30 days after the filing of such protest or claim, set a day for a public hearing thereof. In all such cases the decision of the commission as to the necessity of such work shall be final. Any damage claimed by any party on account of entry work of the commission upon his property shall be determined by an action in court to be tried in the county, and the amount of any damage that may be awarded such party shall be included in the next succeeding estimate of annual requirements of the commission and shall be included in the annual tax levy as provided for in this article and be paid by the commission.

SEC. 412. *Estimate of annual requirements; power and duty of State health commissioner.*—Every such county commission shall, on or before the 1st day of September in each year, file with the State commissioner of health a detailed estimate of the moneys required for the ensuing year and a plan of the work to be done and the methods to be employed, together with a general description of such lands with the names of the owners thereof, as recorded by the last assessment rolls if known, if unknown that fact shall be stated, as the commission proposes to enter upon and to execute such plans and work. Such commissioner shall have the power to approve, modify, or alter such estimates, plans, and methods, and such estimates, plans, and methods finally approved by him shall be forwarded by him to the board of supervisors in the county on or before the 1st day of October following its receipt.

SEC. 413. Duties of boards of supervisors.—It shall be the duty of the board of supervisors in every county in which a commission is appointed as [sic] its annual or other meeting in the month of December of each year and on receipt of the said report from the commissioner of the State board of health, to cause to be included in the annual tax levy of such county and added to the tax roll for the succeeding year such amount of money for the use and purposes of the mosquito extermination commission, in its said county, as is approved by the State commission [sic] of health in such report: *Provided, however,* That in no one year shall the amount so raised exceed the amount hereinafter specified, to wit, in counties where the assessed valuations are not more than \$40,000,000 a sum not greater than 1 mill on every dollar of assessed valuation; in counties where the assessed valuations are in excess of \$40,000,000 a sum not greater than three-eighths of 1 mill on every dollar of assessed valuations.

SEC. 414. Disbursements by county treasurer.—The county treasurer of each county shall pay from time to time to the mosquito extermination commission, on the requisition of such commission, duly signed and approved by the president and secretary thereof, the amount of moneys so specified in the annual tax levy for the purposes and uses of such mosquito extermination commission.

SEC. 415. Annual report.—It shall be the duty of each mosquito extermination commission, on or before the 1st day of September in each year, to submit to the State commissioner of health and to the board of supervisors in each respective county comprised within a mosquito extermination district, a report setting forth the amount of moneys expended during the previous year, showing each item of expenditure, the methods employed, the work accomplished, and any other information which in its judgment may seem pertinent or which the board of supervisors may demand. Such report shall be published in at least one newspaper published in the county.

SEC. 416. Reservation of powers.—Nothing in this article shall be construed to alter, amend, modify, or repeal sections 26 to 32, inclusive, of this law, or of any of the provisions of the drainage law except to the extent that the provisions of this article are inconsistent therewith.

SEC. 417. Temporary provision for 1916.—If a commission be appointed under this article before June 1, 1916, such commission shall, on or before the 1st day of July, 1916, file with the State commissioner of health, in accordance with the provisions of this article, an estimate of the moneys required for the year 1916, and a plan of the work to be done and the methods to be employed by the commission during such year. The State commissioner of health shall on or before July 15 consider such plans, methods, and estimates and approve, modify, or alter the same as provided by section 412, and forward the same to the treasurer of such county, who shall at once borrow, on the credit of such county, the amount specified in such estimate, not exceeding, however, the amount specified in section 413 of this chapter. Such amount, so borrowed, shall be a county charge and shall be included by the board of supervisors in the tax levy for the ensuing year. The money so borrowed shall be paid by the county treasurer to the mosquito extermination commission, according to the provisions of section 414 of this chapter.

SEC. 418. Obstructions; interferences.—Any person who obstructs or interferes with the entry of the commission or its employees upon land or who obstructs or interferes with, molests, or damages any of the work performed by the commission shall be guilty of a misdemeanor.